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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

8 CATHY ENWERE, No. C-11-3834 EMC
9 Plaintiff,
10 v.
11 SAUER & WAGNER LAW FIRM, *et al.*, **ORDER DENYING
12 Defendants. MOTION FOR RELIEF
FOR AMENDED ORDER**
(Docket Nos. 15, 16)

**ORDER DENYING PLAINTIFF'S
MOTION FOR RELIEF AND PETITION
FOR AMENDED ORDER**

16 Previously, this Court granted Plaintiff leave to proceed *in forma pauperis* but dismissed her
17 complaint because, based on the allegations therein, Defendants' conduct was protected by the
18 litigation privilege. The Court, however, gave Plaintiff an opportunity to file an amended complaint.
19 *See* Docket No. 10 (order). Thereafter, Plaintiff filed a paper which the Court construed as a motion
20 to reconsider. The Court denied the motion but reminded Plaintiff that she had an opportunity to file
21 an amended complaint. *See* Docket No. 12 (order). Plaintiff thereafter filed an amended complaint.
22 *See* Docket No. 13 (amended complaint). Because the amended complaint failed to address the
23 deficiencies identified by the Court, it dismissed the suit with prejudice. *See* Docket No. 14 (order).
24 Plaintiff has now filed two motions with this Court. *See* Docket Nos. 15, 16 (motions).

25 However the Court construes these motions – *e.g.*, as motions to alter or amend the judgment
26 pursuant to Federal Rule of Civil Procedure 59 or as motions for relief from the judgment under
27 Rule 60 – the Court concludes that they fail to present any meritorious argument justifying relief.
28 However Plaintiff frames her claims, *e.g.*, defamation, fraud, perjury, misrepresentation, the fact

United States District Court
For the Northern District of California

1 remains that Defendants allegedly made statements to Judge White as a part of a lawsuit, and
2 therefore the litigation privilege is applicable. To the extent Plaintiff argues that Defendants'
3 statements are hearsay, that is beside the point. The Court is not entertaining any evidence at this
4 juncture; it is simply considering what Plaintiff has alleged. Moreover, to the extent Plaintiff would
5 need to rely on the statements to prove her case, the statements would not be hearsay because they
6 would constitute admissions of a party-opponent. *See* Fed. R. Evid. 801(d)(2). Finally, while the
7 Court understands Plaintiff's frustration that it is evaluating her complaint without Defendants even
8 making any argument, it is required to do such because Plaintiff asked for leave to proceed *in forma*
9 *pauperis*. As the Court noted in its order of August 30, 2011, "a court must dismiss any case in
10 which a litigant seeks leave to proceed *in forma pauperis* if the court determines that the action is (1)
11 frivolous or malicious; (2) fails to state a claim on which relief may be granted; or (3) seeks
12 monetary relief against a defendant who is immune from such relief." Docket No. 10 (Order at 2)
13 (citing 28 U.S.C. § 1915(e)(2)). This duty is imposed upon the Court under § 1915(e)(2) even in the
14 absence of a motion by defendant; it is triggered when the plaintiff seeks to proceed *in forma*
15 *pauperis*. As the Court held, Defendants are immune from relief pursuant to the litigation privilege.

16 Accordingly, Plaintiff's motions are hereby **DENIED**.

17 This order disposes of Docket Nos. 15 and 16.

19 IT IS SO ORDERED.

21 Dated: October 17, 2011



22 EDWARD M. CHEN
23 United States District Judge

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CATHY ENWERE, No. C-11-3834 EMC
Plaintiff,

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SAUER & WAGNER LAW FIRM, *et al.*,
Defendants.

CERTIFICATE OF SERVICE

16 I, the undersigned, hereby certify that I am an employee in the U.S. District Court, Northern
17 District of California. On the below date, I served a true and correct copy of the attached, by placing
18 said copy/copies in a postage-paid envelope addressed to the person(s) listed below, by depositing
19 said envelope in the U.S. Mail; or by placing said copy/copies into an inter-office delivery
20 receptacle located in the Office of the Clerk.

21 | Cathy Enwere
22 | 1263 Madera Avenue
22 | Menlo Park, CA 94025

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24 | Dated: October 17, 2011

RICHARD W. WIEKING, CLERK

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By: /s/ Leni Doyle
Leni Doyle
Deputy Clerk